

12.131 CONFIDENTIAL INFORMANT MANAGEMENT AND CONTROL

References:

Procedure 12.620 - Criminal Pursuit Fund
Procedure 12.700 - Securing and Service of Search Warrants
Procedure 12.815 - Court Appearance
Ohio Revised Code 2933.32 - Body cavity and strip searches; conducting unauthorized search; failure to prepare proper report
Standards Manual 17.4.2, 42.2.1, 42.2.9, 51.1.1, 82.2.5, 82.3.5

Definitions:

- Sources of Information (SOI) - Persons or organizations not under the direction of a specific police officer. A source of information furnishes information without compensation and will not take an active part in an investigation. When sources of information seek compensation or become an active part of an investigation, their status changes to confidential informant. SOIs do not require registration.
- Confidential Informants (CI) - Persons under the direction of a specific police officer giving information or other lawful assistance on criminal activity. Confidential informants take active parts in investigations and/or receive compensation. Register all CIs.
- Confidential Defendant Informants (CDI) - Confidential informants who are current defendants in pending court cases and expect compensation in the form of judicial or prosecutorial considerations. Register all CDIs.
- Inactive Confidential Informants - Confidential informants not debriefed within a year, or declared inactive by the control officer.

- Debriefing - Initial and continued questioning of confidential informants. Intelligence gathering on backgrounds, motives, limitations, and other information they have on all types of criminal activity.
- Compensation - Money or judicial/prosecutorial considerations.
- Informant Control Officer (ICO) - Officer controlling the confidential informant.
- Informant Secondary Officer (ISO) - Serves as contact for the confidential informant when the control officer is unavailable and acts as a witness for the control officer.

Purpose:

Control confidential informant behavior by providing standard confidential informant management procedures and control forms for use by all division personnel.

Appoint a secure confidential informant master file location where officers will check confidential informant applicant's history before starting covert activities.

Establish a system where supervisors ensure officers follow confidential informant control procedures, reducing the use of undesirable informants.

Assure accountability of funds provided to confidential informants, using standardized receipts approved by supervisors.

Policy:

The Investigations Bureau Commander can waive portions of this procedure in cases of extreme sensitivity where absolute confidentiality is necessary. Submit specific case information to the Investigations Bureau Commander on a Form 17. Hand deliver the Form 17 through the appropriate chain of command.

Division personnel assigned to the Regional Narcotics Unit (RENU), Federal Bureau of Investigation (FBI) Task Force, and the Violent Crimes Task Force (VCTF) are exempt from this procedure. Personnel assigned to RENU will follow the Hamilton County Sheriff's procedure. Personnel assigned to the FBI Task Force and the VCTF will follow the FBI procedure.

CIs are assets of the division, not specific officers. When ICOs retire, transfer, get promoted, or engage in mismanagement, the division can reassign a CI to another ICO.

Relationships with CIs will remain strictly professional in nature. Social and business contacts are prohibited.

Never use contraband as compensation.

Interdepartmental mail will not be utilized for the delivery of CI documents. All documents regarding the use of CIs will be hand carried.

Procedure:

- A. A person must meet three criteria to establish them as a CI:
 - 1. The person is in a unique position to help the division in a present or future investigation.
 - 2. The person will not compromise division interests or activities.
 - 3. The person will accept the direction necessary to effectively use their services.
- B. Precautions When Dealing with CIs:
 - 1. Never provide CIs with knowledge of police facilities, operations, activities, or personnel.
 - 2. Two police officers must be capable of contacting a CI. Two officers will be present at all contacts with CIs unless otherwise approved by a supervisor.
 - a. When dealing with CIs of the opposite sex or homosexual CIs, two officers will always be present.

- b. Two officers will always be present when paying CIs.
- 3. Immediately document initial debriefing contacts with CIs on the CI Registration and Reliability Report (Form 277).
- 4. Document all significant contacts with CIs on the Controlling District/Section/Unit Debriefing Report (Form 277A). Examples of significant contact are:
 - a. Receiving information about criminals or criminal activity including information from phone conversations.
 - b. Any compensation made to CIs.
 - c. Any contact that results in an arrest or the execution of a search warrant.
 - d. The CI becomes involved in criminal activity.
- 5. Before starting informant activities, CIs will read, understand, and sign the Cooperating Individual Agreement (Form 278), the Cooperating Individual Release of all Claims (Form 280) and the Concealed Transmitter and Recording Consent (Form 281).
- 6. ICOs cannot guarantee judicial or prosecutorial consideration without approval from the court.
- 7. Avoid revealing a CI's identity during court. Thoroughly discuss the CI's confidentiality with prosecutors before court proceedings.
 - a. Consider alternatives to revealing a CI's identity.
 - b. In situations where the disclosure of a CI's identity might adversely affect the outcome of a more significant investigation, officers may request dismissal of the immediate case.

- 1) When requesting a dismissal, or intervening in the disposition of any case, follow Procedure 12.815, Court Appearance.

- a) Hand deliver requests through the appropriate chain of command.

C. Restricted Use CIs:

1. Restricted use CIs are:

- a. Persons under 18 years old.

- 1) Get permission from a parent or legal guardian before using juveniles as confidential informants.

- a) Get the signature of the parent/legal guardian on a Form 280.

- b) Use juvenile CIs only to make controlled purchases of drugs, alcohol, or in other criminal investigations when circumstances are extraordinary and conventional investigative techniques do not produce results.

- b. Persons having a history of drug or alcohol dependency.

2. Get permission from an immediate supervisor before using restricted use CIs.

D. Undesirable CIs:

1. Undesirable CIs are those who:

- a. Commit an act which could endanger the life or safety of a police officer.

- b. Reveal the identity of a police officer to suspects, or in any other way compromise an official investigation.

- c. Try to use the division to further criminal goals.

- d. Provide false or misleading information to police officers.
 - e. Engage in conduct that brings discredit or embarrassment upon the division.
- 2. The use of an undesirable CI requires the permission of an immediate supervisor.
 - a. A Form 17 will be initiated by the Intelligence Section informing the ICs supervisor the CI is undesirable. The supervisor will return the Form 17 to the Intelligence Section indicating his approval/disapproval of the CI's use before the CI is used.
- E. Informant Control Officer (ICO) Responsibilities:
 - 1. Use division approved forms for management and control of CIs.
 - 2. Contact the Intelligence Section (Monday-Friday 0800-1600) to determine if using a CI will conflict with use by other division personnel.
 - a. An immediate supervisor will contact the Police Communications Section and request recall of Intelligence Section personnel when needing information on critical cases.
 - 3. When possible, contact former control officers for more information.
 - 4. Check and report on the reliability of CIs with immediate supervisors.
 - 5. Using persons on probation or parole as CIs.
 - a. Persons under the authority of the Federal Court System (parole/probation/awaiting trial) will not be used by division personnel as CIs.
 - 1) Control of federal defendants is by the sponsoring federal agency that brought the charges before the federal court.

- b. Use state court probationers/parolees by complying with the following guidelines:
 - 1) Contact the person's probation/parole officer.
 - a) Advise of the person's intention to be a CI.
 - b) Request approval and cooperation.
 - c) Obtain the person's conditions of probation/parole.
 - 2) Inform the CI:
 - a) All conditions of probation/parole must be obeyed.
 - b) That his probation/parole officer was informed of intent to be used as a CI.

6. Conduct debriefings.

- a. Document significant debriefings in detail on a Form 277A. Submit debriefings to the immediate supervisor.
- b. Debrief CIs every time a significant contact occurs during current investigations.
- c. For general intelligence gathering purposes, ICOs will contact and debrief CIs that have not been heard from at least quarterly. Submit completed Forms 277A to immediate supervisors.
- d. CIs not debriefed within a year become inactive and require new registration before use.
 - 1) Immediately send a closing Form 277A to the Intelligence Section indicating inactive or undesirable status.

- e. Use the original CI number issued by the Intelligence Section when activating former CIs. Activating an inactive or undesirable CI requires the same procedure as the initial registration.

F. Immediate Supervisor Responsibilities:

1. Securely hand deliver the proper documentation to the Intelligence Section.
 - a. Inquire into the financial aspects of criminals, including:
 - 1) Real estate, automobiles, bank accounts, and businesses owned by suspects.
2. Send information on crime in other jurisdictions to the appropriate law enforcement agency.
3. Ensure ICOs register and manage people who meet the criteria as CIs.
4. Ensure ICOs receive and document approval for using persons with backgrounds that require their classification as restricted use CIs.
 - a. Ensure ICOs exercise strict control measures on CIs who have a history of drug or alcohol dependency.
 - b. Prohibit ICOs from using CIs for random investigations of drug treatment programs for the sole purpose of determining the identity of persons enrolled.
 - c. Identify people who ICOs cannot control effectively and prohibit or restrict their use.
5. Ensure payments to CIs are not excessive and include an approved and witnessed Confidential Informant Receipt (Form 279).
6. Review CI records with unit commanders.
7. Strictly adhere to all provisions of this procedure.

G. Unit Commander Responsibilities:

1. Unit commanders will review all CI records with the ICO supervisor to ensure proper usage.
2. Submit to Intelligence Section by June 1st and December 1st a list of active CIs by CI number.
3. Review and audit payments to CIs.

H. Intelligence Section Responsibilities:

1. The Intelligence Section will maintain a master CI file containing all original CI forms used by the division. The Intelligence Section will:
 - a. Issue CI identification numbers after receiving the completed and approved confidential informant forms.
 - b. Compare CI signatures on the Confidential Informant Receipt Part I (Form 279A) with the CI signature on the original CI registration forms. Notify the unit commander when discrepancies are noted.
 - c. Notify ICOs when obvious conflicts of interest occur.
 - d. Notify an ICOs supervisor, by Form 17, when a CI is undesirable.
 - e. Direct appropriate inquiries by field officers to current or previous ICOs.
 - f. Tell ICOs when other officers make inquiries about their currently controlled CI.
 - g. Deactivate CI records not used or updated within a year.
 - 1) Ensure control units deactivate CIs not used within a year.

- I. Confidential Informant Forms, Documents, and Photographs:
 - 1. Confidential Informant Registration and Reliability Report (Form 277).
 - a. ICOs will complete a wanted and history check on all CIs via RCIC and NCIC.
 - 1) Take appropriate enforcement action on wanted CIs, and notify the immediate supervisor.
 - b. Confirm new adult CI applicants have fingerprints on file at the Warrant/Identification Unit for comparison to ensure positive identification.
 - c. In the space provided on the Form 277, take fingerprints of the CIs left four fingers. Have the Warrant/Identification Unit compare them with the fingerprints on file for positive identification and have the deputy sign the confirming space on the Form 277.
 - 1) Juveniles are not fingerprinted for use as CIs. If the juvenile has been arrested for a crime, ORC 2151.313 must be followed.
 - d. Make a complete set of fingerprints from adult CI applicants not having prints on file.
 - 1) ICOs can roll CI applicant fingerprints in the field.
 - a) Roll fingerprints on a Bureau of Criminal Identification (BCI) Civilian Identification ten print card and an FD-249 ten print fingerprint card.
 - b) Submit CI applicant fingerprint cards to the Criminalistics Squad for processing.

- e. ICOs who cannot roll legible fingerprints will respond to the Criminalistics Squad with CI applicants for fingerprinting.
 - 1) The Criminalistics Squad operates 0800-1600 and 2000-0400 hours, seven days a week.
 - a) Contact the Criminal Investigation Section Commander for fingerprinting CIs in cases of extreme sensitivity.
 - 2) When requested, Criminalistics Squad personnel will take fingerprints of CI applicants and send them to the proper agencies for identification.
 - a) On the BCI and FD-249 fingerprint cards, in the space requiring a charge, the Criminalistics Squad will insert the term "Criminal Inquiry."
- f. Use CIs on a provisional basis while awaiting confirmation of identification from the Criminalistics Squad.
 - 1) The Criminalistics Squad will contact ICOs for transporting returned, completed fingerprint cards for placement into the CI master file at the Intelligence Section.
- g. On the Form 277, in the CI reliability section on the back of the form, include the reason for the person becoming a CI, with the initial debriefing.
- 2. Controlling District/Section/Unit Debriefing Report (Form 277A).
 - a. Record entries on the Form 277A after every significant contact with a CI.
 - 1) Sign and date each entry.
 - 2) Make changes to the CI's personal profile when needed.

- 3) Complete whenever CIs are paid.
 - 4) Deliver updated Forms 277A to the Intelligence Section.
3. Cooperating Individual Agreement (Form 278) and Cooperating Individual Release of All Claims (Form 280).
 - a. ICOs will ensure CIs understand and sign the Form 278 and Form 280.
 - b. ISOs or immediate supervisors will witness the signing of the Form 278 and Form 280.
4. Confidential Informant Receipts Parts I and II (Form 279A and 279B).
 - a. Conform with Procedure 12.620, Criminal Pursuit Fund, when disbursing funds to CIs.
 - b. When providing funds to CIs, the ICO will complete a Confidential Informant Receipt (Form 279A and B).
 - 1) Include the CI number on both portions of the receipt.
 - 2) A brief statement on the Form 279A will include what service the CI gave.
 - 3) The CI will sign the Form 279A using his real name.
 - 4) Immediate supervisors will review and approve all payments to CIs.
 - 5) Keep completed Form 279B receipts and a copy of the Form 277A at the control unit.
 - 6) Attach the Form 279A to the original Form 277A and forward to the Intelligence Section.
5. Concealed Transmitter and Recording Consent (Form 281).

- a. Complete a Form 281 before using transmitter/recording devices on any person other than a police officer.
- 6. Photographing CIs.
 - a. Take two photographs of all adult CIs. Take new photographs when their appearance changes significantly.
 - 1) Deliver one to the Intelligence Section with the initial Form 277.
 - 2) Keep the other photograph at the control unit. Only the code name or number should identify the photograph.
 - b. Juveniles are not photographed by police for use as CIs. A picture furnished by a parent or guardian would be permitted. If the juvenile has been arrested for a crime, ORC 2151.313 must be followed.
- J. Delivery of Confidential Informant Forms, Documents, and Photographs:
 - 1. After supervisory review and approval, immediately hand deliver all completed CI forms, documents, and photographs to the Intelligence Section.
 - a. After receiving the completed and approved forms/documents, the Intelligence Section will issue CI numbers to control units. Once issued, this number will remain with the CI throughout their use and will never be issued again.
 - 1) Record the CI number on all future forms, documents, or pictures instead of the CI's actual name.
 - 2) Record the CI number on the Criminal Pursuit Fund Expense Report (Form 680) instead of the CI's actual name.

K. Control Unit Records on Confidential Informants:

1. Control units will maintain the following:
 - a. CI code books with:
 - 1) The CI code number issued by the Intelligence Section.
 - 2) The name of ICO and ISO.
 - 3) The date of establishment.
 - 4) The nickname or code name of the CI used by the controlling unit.
 - b. Updated copies of Forms 277A using only the CI code number and code name as identity.
 - c. Completed Forms 279B.
 - d. A current photograph of adult CIs.
2. After inactivation of a CI, control units will forward all records to the Intelligence Section where the master file is kept. A new sign up is required before use of an inactive CI.

L. Controlled Purchases Using Confidential Informants:

1. Get permission from an immediate supervisor before making controlled purchases.
2. When possible, use CIs to introduce police officers to make purchases.
3. Use a concealed body transmitting device and/or recording devices on CIs whenever possible.
 - a. Never destroy recordings before the conclusion of court proceedings, including appeals.
4. Search all CIs before and after conducting a controlled purchase of drugs.
 - a. The Strip Search Law (ORC 2933.32) does not apply to the voluntary search of CIs.

- b. Tell an immediate supervisor whenever a strip search of a CI occurs.
 - c. Male officers will search male CIs, female officers will search female CIs.
- 5. Currency used in controlled purchases.
 - a. Make an enlarged photocopy and record serial numbers.
 - b. Two officers will witness buy money given to CIs.
- 6. When possible, use two or more officers for surveillance of CIs during controlled purchases.
- 7. File appropriate criminal charges on CIs fleeing or trying to flee with funds or proceeds of controlled purchases.
 - a. Notify the Investigations Bureau Commander on a Form 17 when CIs flee with funds or proceeds. Hand deliver the Form 17 through the appropriate chain of command.
 - 1) Include the report in the CIs file after the Investigations Bureau Commander reviews the incident and recommends action.
- M. Search Warrants Based on Confidential Informant Supplied Information:
 - 1. Confirm information supplied by CIs used in the drafting of search warrants.
 - a. Officers acting as affiants must see the exact location, for example, house, apartment, floor and door, where correct entry will be made for the service of all search warrants.
 - b. Supervisors will confirm officers have personal knowledge before approving plans for the service of search warrants.
 - c. Affiants and their supervisors must direct and control others that help with the service of search warrants.

- 1) When necessary, affiant officers will show exact entry locations to other units that help with initial entries, e.g., SWAT teams, uniformed units, other agencies.
- 2) For more information, review Procedure 12.700, Securing and Service of Search Warrants.